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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Harry W. Eberle, III Group Art Unit: 3679
Serial No.: 10/037, 325 Examiner: MacArthur, Victor I.
Filed: January 3, 2002
For: **DECKING SYSTEM AND ANCHORING DEVICE**
Docket No.: 0247-5

Bedminster, N.J. 07921
May 3, 2010

Via Facsimile Mail to 571-273-8300

Commissioner for Patents
Mailstop 1450
Alexandria, VA 22313-1450

Sir:

RESPONSE TO RESTRICTION REQUIREMENT

In response to the Office Action dated April 1, 2010, the following remarks are filed.

The Examiner has required restriction under 35 U.S.C. § 121 between the following inventions:

- I. Group I: Claims 29-32, drawn to an anchoring device, classified in class 403, subclass 120; and
- II. Group II: Claims 33, 34 and 36-38, drawn to a decking system, classified in class 52, subclass 177.

In response to the restriction requirement, applicants elect, with traverse, the invention of Group II, claims 33, 34 and 36-38, for further prosecution on the merits.

Reconsideration of this restriction requirement is respectfully requested. The Examiner has stated that the inventions in Groups II and I are related as combination and subcombination, and that inventions in this relationship are distinct if it can be shown 1) that the combination as claimed does not require the particulars of the subcombination as claimed for patentability; or 2) that the subcombination has utility by itself or in other combinations. According to the Examiner, the inventions are distinct, each from the other, because the combination as claimed does not require the

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particulars of the subcombination as claimed because the deck of claim 33 does not require the particulars; rather, the subcombination has separate utility such as in a framing construction.

Yet the relationship between the anchoring device of Group I and the decking system of Group II is an interdependent one, there being the same physical and procedural concepts in the broad aspect of the invention. It is well established that applicants should be allowed reasonable latitude in claiming their invention, provided they do not unduly multiply the claims, which is not the case here. Ex parte Seiback 151 U.S.P.Q. 62. It is submitted that the fields of search involved in examining the claims as grouped would, as a practical matter, be essentially co-extensive and the best interests of the public would be served by having all of the claimed subject matter in the same application.

Accordingly, reconsideration of the restriction requirement is respectfully requested.

In view of the election taken herein and the remarks set forth above, it is submitted that this application is in allowable condition. Accordingly, allowance of the application is earnestly solicited.

Respectfully submitted,
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